



Office of the Attorney General

State of Texas

November 20, 1996

DAN MORALES
ATTORNEY GENERAL

Mr. John Steiner
Division Chief
P.O. Box 1088
Austin, Texas 78767-1088

OR96-2151

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102008.

The City of Austin (the "city") received a request for any documents involving an alleged sexual assault. You claim that the information is excepted from disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

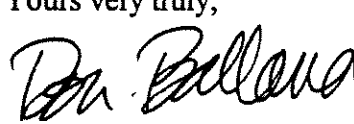
Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).

Because the offense report contains information about an alleged sexual assault, however, the front page offense report information is also excepted from disclosure under section 552.101. Information is excepted from required public disclosure by a common-law right of privacy under section 552.101 if the information (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).

In Open Records Decision No. 393 (1983), this office concluded that, although, generally, only that information which either identifies or tends to identify a victim of sexual assault or other sex-related offense may be withheld under common-law privacy, because the identifying information was inextricably intertwined with other releasable information, the governmental body was required to withhold the entire report. Open Records Decision No. 393 (1983) at 2. It appears that the requestor in this case knows the identity of the alleged victim. We believe that, in this instance, withholding only identifying information from the requestor would not preserve the victim's common-law right to privacy. We conclude, therefore, that the department must withhold the entire offense report and requested information pursuant to section 552.101.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in dark ink, appearing to read "Don Ballard". The signature is fluid and cursive, with the first name "Don" and last name "Ballard" clearly distinguishable.

Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 102008

Enclosures: Submitted documents

cc: Ms. Velvet C. Dixon
Claims Representative
Mann Claim Service
P.O. Box 720636
Houston, Texas 77272-0636
(w/o enclosures)